



**Office of the Attorney General
State of Texas**

DAN MORALES
ATTORNEY GENERAL

August 10, 1995

Honorable Gonzalo Barrientos
Chair
Committee of the Whole on Legislative
and Congressional Redistricting
P.O. Box 12068
Austin, Texas 78711-2068

Letter Opinion No. 95-047

Re: Whether a school administrator may actively recruit members for teacher organizations and associations (ID# 34818)

Dear Senator Barrientos:

You ask whether a school administrator may actively recruit members for teacher organizations and associations. Your specific question is as follows:

Is it appropriate and legal for a building principal or any level administrator to be an active participant in the recruiting of members for teachers organizations? Recruiting activities could include participation in distributing actual literature, having subordinates distribute literature, making a recruitment pitch at a faculty meeting, endorsing a specific organization, or making disparaging remarks about certain organizations. Are any of the aforementioned activities legal and appropriate under the Education Code?

Section 21.407(a) of the recently revised Education Code, *see* Act of May 27, 1995, 74th Leg., R.S., ch. 260, § 1 (*available in* Westlaw, Tx-Legis database), provides as follows:

A school district board of trustees or school district employee may not directly or indirectly require or coerce any teacher to join any group, club, committee, organization, or association.

In addition, section 21.408 provides as follows:

This chapter does not abridge the right of an educator to join any professional association or organization or refuse to join any professional association or organization.

Section 21.407(a) is almost identical to former section 21.904(a) of the Education Code, which was recently repealed. *See id.* § 58.¹ Section 21.407(a), like now-repealed

¹Section 21.904 provided as follows: "No school district, board of education, superintendent, assistant superintendent, principal, or other administrator benefiting by the funds provided for in this code shall directly or indirectly require or coerce any teacher to join any group, club, committee, organization,

section 21.904(a), prohibits a school district administrator from directly or indirectly requiring or coercing any teacher to join any organization or association. Whether particular conduct on the part of an administrator directly or indirectly requires or coerces a teacher to join an organization or association is a question of fact and will depend in part upon the administrator's authority, the nature of the organization or association, and the nature of the conduct. We believe that a trier of fact could very well conclude, for example, that mere words of encouragement to join a particular teacher organization or association, when uttered by a high-level administrator in a particular context, are in fact coercive.²

S U M M A R Y

Section 21.407(a) of the Education Code prohibits a school district employee from directly or indirectly requiring or coercing any teacher to join any organization or association.

Yours very truly,



Jorge Vega
First Assistant Attorney General

(footnote continued)

or association." Act of August 11, 1961, 57th Leg., 2d C.S., ch. 1, § 8, 1961 Tex. Gen. Laws 503, 511 (repealed 1995).

²We further note that by granting one teacher organization or association access to school facilities, such as teacher mail boxes or faculty meetings, to distribute literature or information, a school district may give rise to a first amendment right to access on the part of other teacher organizations or associations. *See generally Texas State Teachers Ass'n v. Garland Indep. Sch. Dist.*, 777 F.2d 1046 (5th Cir. 1985), *aff'd*, 479 U.S. 801 (1986).